

### REMARKS

In response to the Office Action dated September 29, 2003, Applicants respectfully request reconsideration based on the above amendments and the following remarks. Applicants respectfully submit that the claims as presented are in condition for allowance.

Claims 21, 33 and 38 have been amended and claims 44-45 and 47 have been canceled without prejudice, leaving claims 21, 23-25, 27, 31-38, 41, 43, 46 and 48 for consideration upon the entry of the amendment. Support for the amendments can be found in the entire specification.

#### ***Incorporation by Reference***

The Examiner states that the attempt to incorporate subject matter into the specification by reference to (1) GRPS MS-SGSN LLC, GSM 04.64 (ETSI No. TS 101 351); (2) GRPS MS-SGSN Sndcp, GSM 04.65 (ETSI No. TS 101 297); (3) IW PLMN GRPS-PDN, GSM 09.60 (ETSI No. EN 301 347); (4) GRPS-PDN, GSM 09.61 (ETSI No. TS 101 348); and (5) digital cellular telecommunication system (phase 2+) is improper because essential material necessary to describe the claimed invention is not disclosed in the specification. Applicants respectfully disagree with the Examiner.

The subject matter incorporated by reference is not essential material but rather, non-essential material. The references illustrate the state of art, for example, certain GPRS protocols of GPRS architectures, rather than the subject matter of the claimed invention. Thus, the subject matter incorporated by reference is non-essential material. When the subject matter is non-essential matter, the non-essential subject matter may be incorporated by reference to non-patent publications. See MPEP 608.01 (p). Thus, the incorporation by reference is proper.

#### ***Claim Rejections Under 35 U.S.C. § 103***

##### Claims 21, 23-24, 33-36, 38, 41 and 48

Claims 21, 23-24, 33-36, 38, 41 and 48 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Tracy et al., (hereinafter "Tracy") for the reasons stated on pages 3-6 of the Office Action. Applicants note that the Examiner apparently relied upon Tracy

6,014,089, not Tracy 6,150,955. Thus, Applicants remarks are directed to Tracy 6,014,089.

For an obviousness rejection to be proper, the Examiner must meet the burden of establishing that all elements of the invention are disclosed in the prior art; that the prior art relied upon, coupled with knowledge generally available in the art at the time of the invention, must contain some suggestion or incentive that would have motivated the skilled artisan to modify a reference or combined references; and that the proposed modification of the prior art must have had a reasonable expectation of success, determined from the vantage point of the skilled artisan at the time the invention was made. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988); *In Re Wilson*, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970); *Amgen v. Chugai Pharmaceuticals Co.*, 927 U.S.P.Q.2d, 1016, 1023 (Fed. Cir. 1996). However, Tracy does not teach or suggest all the limitations of claim 21.

In claim 21, a short message is transferred between a selected terminal and a gateway over the GSM network via a Short Messaging Center coupled to a Mobile Switching Center. Therefore, a user at the selected terminal can directly receive data from the gateway as well as directly send commands to the gateway, without going through a central processor or control center.

On the contrary, the short message, in Tracy, is transmitted between a remote device (54 in Fig. 8) and a data collection device (50 in Fig. 8), rather than between a terminal and the data collection device (50). For example, when a user at the terminal, for example, a utility company requests data to the remote device (54) via a public switched telephone network (56 in Fig. 8), the request data is transmitted from the remote device (54) to the data collection device (50). Then, the requested data is transmitted to the utility company via the remote device (54) and the public switching telephone network (56) (See col. 12, lines 2-11 of Tracy). Thus, Tracy does not disclose the direct connection for transmitting the requested data between the terminal and the data collection device. Accordingly, Tracy does not teach or suggest a direct connection is provided for transmitting the short message between the gateway and the terminal without making a telephone call, as claimed in claim 21.

Further, Tracy does not teach or suggest controlling devices located at a selected facility by formulating a control message and forwarding it via the GSM network to the selected facility, wherein the gateway at the facility processes the control message in order to control one or more devices coupled to the gateway, as claimed in claim 21. In Tracy, the remote device (140 in Fig. 6) controls or terminates the data collection of the data collection device, rather than controlling or disabling the devices connected to the data collection device. Thus, Tracy does not teach or suggest controlling the devices coupled to the gateway by forwarding a control message to the gateway. Accordingly, Tracy does not render obvious claim 21.

Claim 33 includes the limitation: a base station controller adapted to route data forwarded to the base station controller via wireless transmission to a support node, the support node formatting the message into a format selected from the group consisting of internet protocol, X.25 protocol and a data protocol, depending on which network over which the message will be transmitted. Tracy simply discloses that the data is transmitted from a base transceiver system (102 in Fig. 1) to a base station controller (106 in Fig. 1) but does not teach or suggest the support node for formulating the message in varying format. Thus, Tracy does not teach or suggest all the limitations of claim 33. Accordingly, Tracy does not render obvious claim 33.

Claim 38 includes the limitation: wherein a user accesses the collected message via the central processor, and controls the gateway by formulating a command that will be routed directly from the user's mobile station to the gateway. As described above, Tracy does not teach or suggest the direct connection between the user and the gateway. Thus, Tracy does not render obvious claim 38.

Claims 23-24 depend from claim 21, claims 34-36 depend from claim 33 and claims 41 and 48 depend from claim 38. Thus, these dependent claims are believed to be allowable due to their dependency on claims 21, 33 and 38.

#### Claims 27 and 31

Claims 27 and 31 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Tracy and further in view of Ehlers et al., US 5,572,438 (hereinafter "Ehlers") for the reasons stated on pages 6-7 of the Office Action.

Ehlers discloses an energy management and building automation system. However, Ehlers neither teaches nor suggests the limitations: controlling devices located at a selected facility by formulating a control message and forwarding it via the GSM network to the selected facility, wherein the gateway at the facility processes the control message in order to control one or more devices coupled to the gateway, and wherein a direct connection is provided for transmitting the short message between the gateway and the terminal without making a telephone call, as claimed in claim 21. Thus, Ehlers does not cure the deficiency of Tracy. Accordingly, the combination of Tracy and Ehlers does not render obvious claim 21. Claims 27 and 31 depend from claim 21, and thus are believed to be allowable due to their dependency on claim 21.

Claims 25, 32 and 43-47

Claims 25, 32 and 43-47 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Tracy and further in view of Jenney et al., US 5,897,607 (hereinafter "Jenney") and Serbetciouglu et al., US 5,719,918 (hereinafter "Serbetciouglu") for the reasons stated on pages 7-8 of the Office Action. Since claims 44-45 and 47 have been canceled without prejudice, the rejection of claims 44-45 and 47 is moot.

Jenney discloses an automatic meter reading system. However, Jenney does not teach or suggest the direct connection for transmitting the short message between the gateway and the terminal. Further, Jenney does not teach or suggest controlling devices at a selected facility via the gateway at the facility. Thus, Jenney does not cure the deficiency of Tracy.

Serbetciouglu discloses a transaction handling system, which is distinct from the invention of claim 21. Serbetciouglu does not teach or suggest the limitations: controlling devices located at a selected facility by formulating a control message and forwarding it via the GSM network to the selected facility, wherein the gateway at the facility processes the control message in order to control one or more devices coupled to the gateway, and wherein a direct connection is provided for transmitting the short message between the gateway and the terminal without making a telephone call, as claimed in claim 21. Thus, Serbetciouglu does not cure the deficiency of Tracy or Jenney.

Accordingly, the combination of Tracy, Jenney and Serbetciouglu does not render

obvious claim 21. Claim 38 is believed to be patentable over the combination for at least the reasons given for claim 21. Claims 25 and 32 depend from claim 21 and claims 43 and 46 depend from claim 38. These dependent claims are believed to be allowable due to their dependency on claims 21 and 38.

Claim 37

Claim 37 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Tracy and further in view of Jenney for the reasons stated on page 8 of the Office Action.

Jenney does not teach or suggest the support node for formulating the message in varying format. Thus, Jenney does not cure the deficiency of Tracy. Thus, the combination of Tracy and Jenney does not render obvious claim 33. Claim 37 depends from claim 33, and thus is believed to be allowable due to its dependency on claim 33.

**Conclusion**

In view of the foregoing remarks and amendments, Applicants submit that the above-identified application is now in condition for allowance. Early notification to this effect is respectfully requested.

If there are any charges with respect to this response or otherwise, please charge them to Deposit Account 06-1130 maintained by Applicants' attorneys.

Respectfully submitted,

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